Supreme Court, U.S.
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APPENDIX

IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-128

MARVIN MANDEL, GOVERNOR OF MARYLAND, ET AL.,
Appellants,

v.

BRUCE BRADLEY, ET AL.,
Appellees.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

JURISDICTIONAL STATEMENT FILED JULY 29, 1976
PROBABLE JURISDICTION NOTED OCTOBER 4, 1976

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RELEVANT DOCKET ENTRIES

4/30/76—(1) Complaint.

4/30/76—(2) Motion of Plaintiffs for Temporary Restraining Order, Preliminary Injunction and Declaratory Relief.

4/30/76—(4) Order (Thomsen, J.) with consent of Attorneys for Plaintiffs and Defendants restraining

Defendants from enforcing Section 7-1 of the Maryland Election Code and setting hearing on Preliminary Injunction.

4/30/76—(5) Application of Plaintiffs for Convening of Three Judge Court.

5/10/76—(9) Designation of a Three-Judge Court.

5/10/76—(10) Motion of Defendants to Dismiss or in the Alternative for Summary Judgment and Motion of Defendants to Dissolve the Three-Judge Court.

5/12/76—Hearing on Motion of Defendants to dissolve the Three-Judge Court. Motion denied.

5/12/76—Hearing on Motion of Defendants to Dismiss or in the Alternative for Summary Judgment.

5/12/76—Counsel requested the Court to consider the hearing to be on the merits in the event summary judgment was denied.

5/12/76—Argued and held sub curia.

5/17/76—(11) Opinion of Court.

6/2/76—(12) Order.

6/4/76—(13) Notice of Appeal of Defendants to the Supreme Court of the United States.

WHAT MAY BE FOUND IN THE APPENDIX TO THE JURISDICTIONAL STATEMENT

The following three items may be found in the Appendix to the Jurisdictional Statement which was filed with the Jurisdictional Statement:

1. The Opinion of the District Court;
2. The District Court's Order;
3. The Appellants' Notice of Appeal, filed June 2, 1976.

Note that the pagination in the Appendix to the Jurisdictional Statement is in the form "1a, 2a, 3a, ..." 2A, 3A, ..."

COMPLAINT

In the
United States District Court for the
District of Maryland

Civil Action No. T-76-638

Bruce Bradley; John F. Falconer; John McGrath; Gloria Fazio and Paul Poff,
Plaintiffs,

v.

Honorable Marvin Mandel; Francis B. Burch, Attorney General; Willard A. Morris, Administrator, State Administrative Board of Election Laws; Reginald A. Asplen, Chairman, State Administrative Board of Election Laws; Theodore N. Clark, Vice Chairman, State Administrative Board of Election Laws; Ann Schissler, State Administrative Board of Election Laws; James W. Johnson, Jr., State Administrative Board of Election Laws and Stephen R. Fegan, State Administrative Board of Election Laws,
Defendants.

JURISDICTION AND VENUE

1. This suit arises under the Constitution and Laws of the United States.

2. The amount in controversy, exclusive of interest and costs, exceeds $10,000.

3. This Court has jurisdiction over this action under 28 U.S.C. §1331 (Federal Question) and under 28 U.S.C. §2201, *et seq.* (Declaratory Judgments).

4. Venue is properly laid in this District under 28 U.S.C. §1391(b) since all parties to the action reside within the State of Maryland.

5. Plaintiff Bruce Bradley is a citizen of the United States and a resident of the State of Maryland. He is a registered voter of the State of Maryland and is not a member of an organized political party as defined by the Election Code of the State of Maryland. Md. Ann. Code, Art. 33. He is an independent candidate for the Office of United States Senator from the State of Maryland and desires that his name be placed upon the ballot for election to that office in the general election to be held in November, 1976.

6. Plaintiff John F. Falconer is a citizen of the United States and a resident of the State of Maryland. He is a registered voter in the State of Maryland and has signed a nominating petition which was filed with the State Administrative Board of Election Laws which petition was filed in order to have the name of Bruce Bradley placed upon the ballot for the office of United States Senator from the State of Maryland in the general election to be held in November, 1976. Said nominating petition was filed pursuant to the Election Code of Maryland. Md. Ann. Code, Art. 33, §7-1.

7. Plaintiff John McGrath is a citizen of the United States and a resident of and a registered voter in the State of Maryland. He desires to sign a nominating petition in order to have placed upon the ballot the name of Bruce Bradley as an independent candidate for the office of United States Senator from the State of Maryland in the general election to be held in November, 1976. He has not, to date, signed such a petition.

8. Plaintiff Gloria Fazio is a citizen of the United States and is a resident of and registered voter in the State of Maryland. She signed a nominating petition in order to have placed upon the ballot the name of Bruce Bradley as an independent candidate for the office of United States Senator from the State of Maryland in the general election to be held in November, 1976. Her

signature was determined to be invalid and was not counted for purposes of placing the name of Bruce Bradley on the ballot in the November election for the reason that she did not print or type her name beneath her signature.

9. Plaintiff Paul Poff is a citizen of the United States and a resident of and a registered voter in the State of Maryland. He signed a nominating petition in order to have placed upon the ballot the name of Bruce Bradley as an independent candidate for the office of United States Senator from the State of Maryland in the general election to be held in November, 1976. His signature was determined to be invalid and was not counted for purposes of placing the name of Bruce Bradley on the ballot in the November election for the reason that his signature was appended to a nominating petition sheet which contained the names of persons residing in a county other than the county wherein the instant plaintiff resides.

10. Defendant Marvin Mandel is the Governor of the State of Maryland and, as such, possesses the executive powers of the State of Maryland, has supervisory power over the officers and agents of the Executive Department and has the duty to ensure that the laws of the State of Maryland are faithfully executed. Md. Const., Art. II, §§1,9; Md. Ann. Code, Art. 41, §15.

11. Defendant Francis B. Burch is the Attorney General of the State of Maryland and, as such, is the supervisor and director of the legal affairs of the State of Maryland and is the head of the Department of Law. Md. Const., Art. IV, §3; Md. Ann. Code, Art. 32A, §2, Art. 41, §199.

12. Defendant Willard A. Morris is the State Administrator of Election Laws and as such performs certain duties, statutorily imposed and otherwise, involving the administration and functioning of the election laws and as such performs certain duties, statutorily imposed and otherwise, involving the administration and functioning of the election laws of the State of Maryland. Md. Ann. Code, Art. 33, §1A-1.

13. Defendant State Administrative Board of Election Laws is a statutorily created body whose members are appointed by the Governor of the State of Maryland with the advice and consent of the Senate. *Inter alia*, the Board has the power to exercise supervision over the conduct of elections in the State of Maryland and to determine the sufficiency of the percentage of registered voters signing nominating petitions in order to have the name of Bruce Bradley placed upon the ballot for the office of United States Senator from the State of Maryland for the general election to be held in November, 1976. Md. Ann. Code, Art. 33, §1A-1, 7-1. The Board has the further duty of officially notifying each local county election board of the names of those persons properly nominated for elective office. Md. Ann. Code, Art. 33, §8-4.

14. Each of the remaining defendants, Reginald Asplen, Theodore N. Clarke, Ann Schissler, James W. Johnson, Jr. and Stephen R. Fegan, is a member of the State Administrative Board of Election Laws which Board has the powers and duties to exercise supervision over the conduct of elections in the State of Maryland and, in particular, has the duty to determine the sufficiency of the percentage of registered voters signing nominating petitions in order to have the name of Bruce Bradley placed upon the ballot for the office of United States Senator from the State of Maryland for the general election to be held in November, 1976. Md. Ann. Code, Art. 33, §§1A-1, 7-1.

15. Each of the defendants when acting or refusing to act as herein alleged, were so acting or refusing to act pursuant to the duties of their offices as herein described and prescribed by the Laws and Constitution of the State of Maryland. Notwithstanding the foregoing, the defendants have acted and/or refused to act in a manner contrary to and inconsistent with the First and Fourteenth Amendments to the United States Constitution, and, in so doing, have acted beyond their official capacity, unlawfully and beyond the authority of law. The defendants herein are sued in their official and personal capacities.

STATUTES INVOLVED

16. In order for the name of an independent candidate to appear on the ballot in the State of Maryland, that candidate must comply with the provisions of the Maryland Election Code, Art. 33, §7-1. In relevant part, that section states:

> a. The independent must be nominated by means of a petition process.
>
> b. The independent candidate must file a certificate of candidacy accompanied by a sworn statement that he has on file with the election boards petitions signed by not less than 3% of the registered voters who are eligible to vote for the office for which the nomination by petition is sought. In the case of a candidate for the office of United States Senator, 3% of all registered voters of the State of Maryland must sign nominating petitions.
>
> c. An individual petition sheet may not contain the names of persons residing in more than one county or in any county and in the City of Baltimore. Each signator must append to his signature his residence, the name of the county or City of Baltimore where he is a registered voter and must print or type his name immediately below his signature.
>
> d. Any petition sheet which is to form a part of the certificate of candidacy must be submitted to the election board for the county or city of Baltimore wherein the signers of the petition sheet are alleged to reside. The petition sheets must be delivered to the local election boards by 9:00 p.m. on the Monday which is ten weeks or seventy days before the day on which the primary election office should be held.
>
> e. The local election boards verify the number of legitimate signatures appended to the petition sheets and the State Administrative Board of Election Laws determines the sufficiency of the percentage of registered voters signing petitions.

f. If the total number of signatures is not properly appended to the petition, the State Administrative Board of Election Laws is required to declare that the candidate has not complied with the Election Code and that the name shall not be placed on the ballot.

17. The date for the primary election is established pursuant to the Election Code of Maryland, Art. 33, §5-2. Pursuant to that section, the date of the primary election for this election year is May 18, 1976.

18. Persons who are members of political parties as defined by the Election Code who desire that their names be placed upon the ballot in the general election to be held in November, 1976 for the office of United States Senator are not required to comply with the above-described nominating petition process; rather, they utilize the primary election process. In order for the name of such a person to be placed on the primary election ballot, he must be a member of a political party as defined by the Election Code and must file a certificate of candidacy for such nomination. Md. Ann. Code, Art. 33, §§401, 4A-1 through 4A-8, 5-1.

STATEMENT OF FACTS

19. Bruce Bradley is currently seeking to have his name placed on the ballot in the November, 1976 general election as an independent candidate for the Office of United States Senator from the State of Maryland.

20. Under the above-described statutory scheme, in order for the name of Bruce Bradley to appear on the ballot in the general election to be held in November, 1976, it was necessary that Bruce Bradley file his certificate of candidacy on March 8, 1976, and that petition sheets to which are appended 51,155 signatures be submitted to local county election boards on March 8, 1976.

21. On March 8, 1976, Bruce Bradley timely and properly filed a properly executed certificate of candidacy. Further, on March 8, 1976, petition sheets to

which were appended 53,239 signatures were submitted to the local election boards.

22. By letter of April 15, 1976, Defendant Morris declared that Bruce Bradley had failed to perform all requirements of nomination by petition, in that a number of signatures appended to the petition sheets were found by the local boards to be invalid for technical and other reasons. The total number of signatures found to be valid did not total in excess of 51,155. Defendant Morris, pursuant to the provisions of the Election Code of Maryland, Art. 33, §7-1, declared that the name of Bruce Bradley shall not appear on the ballot for the general election in November, 1976.

23. Plaintiff Bradley and others made a good faith effort to comply with provisions of the Election Code as above described. Indeed, Plaintiff Bradley did, in fact, literally comply with provisions of the Election Code by filing the required certificate of candidacy and by submitting petitions to local boards upon which were appended a sufficient number of signatures, all of which, to the best knowledge of Plaintiff Bradley, were registered voters of the State of Maryland.

24. Plaintiff Bradley and others experienced great difficulty in garnering signatures from registered voters for the nominating petitions due, in large part, to the temporal remoteness of the petition gathering period which ended on March 8, 1976 from the date of the general election which is November 2, 1976. But for the remote filing date for nominating petitions prescribed by the Election Code of Maryland, Plaintiff Bradley would have submitted to the local boards a number of valid signatures vastly in excess of the number required by the Election Code of Maryland.

FIRST CLAIM

25. The provisions of Article 33, §7-1 of the Election Code of Maryland deny to the Plaintiffs named herein their rights as guaranteed by the First Amendment to the United States Constitution as applied to the States by the Fourteenth Amendment in that the remoteness of the nominating petition filing date from the date of

the general election places an unconstitutionally heavy burden on Plaintiff Bradley to have his name placed on the ballot, thus restricting the rights of the Plaintiffs to associate freely for the purpose of expressing constitutionally protected political beliefs and said provisions unduly limit the number of potential candidates for elective office, thus unconstitutionally impacting the Plaintiffs' right to vote.

SECOND CLAIM

26. The provisions of Article 33, §7-1 of the Election Code of Maryland, as such provisions require the filing of nominating petitions of independent candidates on March 8, deny to one or more of the Plaintiffs named herein their rights as are guaranteed by the Fourteenth Amendment to the United States Constitution in that independent candidates must comply with the unnecessarily burdensome requirements of filing nominating petitions at a date far removed from the date of the general election in order to have their names placed on the ballot in Maryland elections whereas candidates who are members of political parties, as defined by the Maryland Election Code, need not comply with the petition process requirements.

THIRD CLAIM

27. The provisions of Article 33, §7-1 of the Election Code of Maryland deny to the Plaintiffs named herein their rights as guaranteed by the First Amendment to the United States Constitution as applied to the States by the Fourteenth Amendment in that the undue technical and administrative requirements of the petition signing process place a substantial burden on Plaintiff Bradley to have his name placed on the ballot, thus restricting the rights of the Plaintiffs to associate freely for the purpose of expressing constitutionally protected political beliefs and said provisions unduly limit the number of political candidates for elective office, thus unconstitutionally impacting the Plaintiffs' right to vote.

28. The technical and administrative requirements of the petition signing process which substantially

burden the constitutional rights of the Plaintiffs as herein alleged include but are not limited to:

a. The registered voter must append to his signature on the petition his residence, the name of the county or city where he is a registered voter, and he must type or print his name immediately below his signature.

b. The petition sheets filed at local election boards may not contain the names of persons residing in more than one county or in any one county and in the City of Baltimore.

29. The actions of the Defendants and others which substantially burden the constitutional rights of the Plaintiffs as herein alleged include, but are not limited to:

a. Local election boards, pursuant to their duties prescribed by the Maryland Election Code, Art. 33, §7-1 have declared signatures appended to Bruce Bradley's petition for candidacy not to be "valid" where technical deficiencies unrelated to the signator's status as a registered voter occurred in the petition signing process.

b. The scrutiny applied and efforts expended by the various local election boards in determining the "validity" of signatures appended to petitions filed by Bruce Bradley were not uniform but varied greatly from county to county.

30. The extraneous factors which substantially burdened the constitutional rights of the Plaintiffs as herein alleged include, but are not limited to:

a. During the signature-gathering period, the names of duly registered voters of the State of Maryland were being purged from the lists of registered voters of the State of Maryland pursuant to the Maryland Election Code, Art. 33, §3-26, thus limiting the pool of registered voters who could sign nominating petitions for Bruce Bradley. In numerous cases, the formerly registered voters were not notified of the change in voter registration status.

b. After the completion of the signature-gathering period, *i.e.*, after March 8, 1976, various counties commenced voter registration drives in anticipation of the primary election to be held in Maryland on May 18, 1976. These newly registered voters were not eligible to sign nominating petitions for Bruce Bradley.

c. Despite the good faith effort of Bruce Bradley and his supporters to accept the signatures only of duly registered voters signed in the proper form, only 42,049 signatures were found to be "valid" by county election boards from a total amount of signatures submitted numbering 53,239. This large "invalid" rate rendered the nomination by petition process extremely uncertain and open-ended in that an independent candidate can never be assured that sufficient signatures have been collected to guarantee that the candidate's name will be placed on the ballot.

31. The burdens listed herein at Paragraphs 28-30 exacerbate the basic constitutional deficiency of Article 33, §7-1 of the Maryland Election Code, which is the remoteness of the filing date for independent candidates' nominating petitions from the date of the general election. The above-described burdens (Paragraphs 28-30) constitute a totality of circumstances which also violate the rights of the plaintiffs as guaranteed by the First and Fourteenth Amendments to the United States Constitution as applied to the States by the Fourteenth Amendment.

32. The provisions of Article 33, §7-1 of the Election Code of Maryland, as such provisions place undue technical and administrative requirements on the petition signing process, deny to one or more of the plaintiffs named herein their rights as are guaranteed by the First and Fourteenth Amendments to the United States Constitution in that independent candidates must comply with these unnecessarily burdensome requirements in order to have their names placed on the ballot in Maryland elections, whereas candidates who are members of political parties as defined by the

Maryland Election Code need not comply with the petition process requirements.

FURTHER ALLEGATIONS

33. Additional signatures are currently being gathered for purposes of filing in support of the candidacy of Bruce Bradley. If the relief requested herein by the plaintiffs is granted, the campaign of signature collection will be recommenced, and the requirement of the additional 9,106 signatures needed to fulfill the 3% requirement of the Maryland Election Code, Art. 33, §7-1 will be fulfilled.

34. The defendants, as herein alleged, have acted or refused to act and continue to act or refuse to act in a manner which violates rights of the plaintiffs guaranteed by the United States Constitution.

35. As herein described and alleged, the defendants' acts or refusals to act have caused and continue to cause the plaintiffs immediate and irreparable injury for which the plaintiffs have no adequate remedy at law.

PRAYERS FOR RELIEF

WHEREAS, plaintiffs pray for relief as follows:

1. That this Court enter an Order declaring that Article 33, §7-1 of the Election Code of Maryland is in violation of the First and Fourteenth Amendments to the United States Constitution;

2. That this Court enter an Order requiring the State Administrative Board of Election Laws to place the name of Bruce Bradley on the ballot for the office of United States Senator from the State of Maryland in the general election to be held in November, 1976; or, in the alternative, that this Court enter an Order temporarily and permanently restraining and enjoining the defendants from refusing to place the name of Bruce Bradley on the ballot for the office of United States Senator from the State of Maryland in the general election to be held in November, 1976, unless Plaintiff Bradley is afforded additional time to four weeks after this Court's Order or to July 1, 1976, whichever is later,

in which to collect additional signatures for his nominating petition and unless those additional signatures are validated and counted by the local election boards of each county and the City of Baltimore and by the State Administrative Board of Election Laws as if those signatures had been submitted on March 8, 1976, pursuant to the Maryland Election Code, Art. 33, §7-1; and

3. That this Court enter an Order enjoining the enforcement of Section 7-1 of the Maryland Election Code insofar as it requires the filing of nominating petitions and signatures for Plaintiff Bradley no later than March 8, 1976; and

4. That this Court enter an Order granting plaintiffs their costs of the suit herein and any other such relief as this Court deems meet in the premises.

JAMES M. SMITH,
GEBHARDT & SMITH,
JON T. BROWN,
JAMES D. PEMBROKE,
DUNCAN, BROWN, WEINBERG
& PALMER,
Attorneys for Plaintiffs.

ORDER GRANTING TEMPORARY RESTRAINING ORDER

This matter having come on for hearing on Plaintiffs' Motion for Temporary Restraining Order this 30th day of April, 1976, and upon consideration of Plaintiffs' Complaint, motion, memorandum in support thereof, affidavits and appendices in support thereof, and the oral argument of counsel; and upon a finding by this Court that the Plaintiffs are threatened with immediate and irreparable injury if the requested relief is not granted, and upon a finding that the Complaint raises substantial Federal questions under the First and Fourteenth Amendments to the United States Constitution; and upon a finding that the public interest will be served if the relief requested is granted,

It is HEREBY ORDERED that the Defendants, their agents, officers, servants and employees and all persons in active concert and participation with them are hereby restrained from enforcing Section 7-1 of the Maryland Election Code insofar as it requires Plaintiff Bradley to file his nominating petitions on or before March 8, 1976, from refusing to place the name of Bruce Bradley on the Maryland general election ballot for 1976 as an independent candidate for United States Senator unless and until Plaintiff is afforded additional time (to 9:00 p.m. on May 18, 1976, or until such later date as may be ordered by this Court) in which to collect and file with the appropriate election boards additional signatures for his nominating petitions, provided that the defendants and those acting in concert with them are not required to count and verify such signatures absent further order of this Court.

And it is further ORDERED that the motion for preliminary injunction and further relief shall come on for hearing on the 12th day of May, 1976, at 10:00 a.m.

ROSZELL C. THOMSEN,
United States District Judge.

Dated: 5:45 p.m.
April 30, 1976

AFFIDAVIT OF BRUCE BRADLEY

City of Washington, District of Columbia, SS.:

BRUCE BRADLEY, being first duly sworn, deposes and says:

1. He is a plaintiff in the above-entitled action.

2. This is an action for injunctive and declaratory relief which seeks orders from this Court declaring Maryland Election Code, Art. 33, Section 7-1 to be in violation of the United States Constitution and enjoining the defendants from refusing to place the name of Bruce Bradley on the ballot for the general election to be held in November, 1976, for the office of United States Senator from the State of Maryland.

3. He is a candidate for the office of United States Senator from the State of Maryland. He seeks this office as an independent candidate, thus, he is required to satisfy the requirements of the nomination by petition process as set out in the Maryland Election Code, Art. 33, Section 7-1. *Inter alia,* it was necessary for the campaign to submit to the local election boards petitions to which are appended 51,155 signatures.

4. To obtain 51,155 valid signatures requires an extensive management job including the recruitment of key individuals to co-ordinate the day-to-day operations of a statewide petition drive. The most important of these individuals is the campaign manager, who in turn is responsible for recruiting additional people to fill supervisory and staff positions both at headquarters and in each county where petitions are collected.

5. The actual work of collecting signatures is performed by volunteers during their free time. Thus, a large number of volunteers is necessary and considerable time in which to the signatures is an equally important requisite. To successfully complete the signature collection drive before the March 8 deadline, the basic campaign organization, including the recruitment of campaign manager and his staff members, had to be accomplished a year and one-half before the November, 1976 election. In order to meet expenses, including costs of office space, staff salaries, printed literature, petition forms, and minimum support facilities for petition drives, campaign fund raising had to commence prior to that period, or in excess of one and one-half years before the general election.

6. A petition drive which must be concluded 239 days before the general election imposes severe hardships upon prospective candidates. A voter, in considering whether he wishes to sign the petition of a particular candidate, is interested in three things: (1) the identity and platform of the candidate, (2) his views on important issues of the day, and (3) his position in relation to those of his potential opponents. Because the petition drive had to be conducted so far in advance of the election, it was impossible for any prospective signer to consider Bradley in light of those concerned.

7. In order to campaign effectively as an independent candidate for statewide office in Maryland, adequate press coverage is essential. Since March 8 has been established by the Maryland Election Code as the filing date for nominating petitions, media coverage much in advance of that date was necessary in order to educate the public concerning the petition process and the candidate. This media coverage would both increase the number of persons who would offer to help the campaign and would make individuals more willing to sign nominating petitions by creating an awareness of the upcoming election. In the fall of 1975, which was the most important time in the Bradley campaign, or in any independent's campaign, four major daily newspapers in Maryland, *The Washington Star, The Washington Post, The Baltimore Sun,* and *The Baltimore News American* had not yet assigned political correspondents to cover the U.S. Senate Race in Maryland. There was thus no journalistic machinery to efficiently or properly handle the development of my campaign and petition drive. Because of the lack of press coverage, prospective signers were unaware of who Bradley was, what his platform consisted of, or who his potential opponents were.

8. The early filing deadline further hampers an independent candidate's campaigning role because the issues which will be important in the 1976 election have not yet crystallized when the independent is seeking signatures for his nominating petition. For instance, the issues of 1975 which will not be important in the 1976 election include the Church Committee hearings on CIA activities, the recession and the New York City financial crisis. These issues decrease greatly in importance by the date for the primary and certainly by the date for the general election. Maximum efforts on the part of the independent candidate during the petition drive to make well-known his position on the issues of 1975 may not appreciably affect the voters' impression of the independent candidate concerning his position on the important issues of November, 1976.

9. In recent years, an increased number of voters in Maryland and the U.S. have disassociated themselves from major political parties and have registered as independents. In addition, a decreasing number of voters each year were participating in the political process by voting in the primary or general election. The right of a citizen to petition his fellow citizens in an effort to gain his place on the ballot should not be made more difficult by forcing him to complete what is, in effect, his primary 239 days before the general election and 70 days before the primary elections.

10. As has been more clearly pointed out in other affidavits, the Bradley campaign collected and submitted 53,239 signatures to the election boards in support of the candidacy of Bruce Bradley. The boards determined that numerous signatures submitted were "invalid" for technical and other reasons. Thus, the State Board determined that the name of Bruce Bradley will not appear on the ballot for the general election to be held in November, 1976.

11. As has been more fully pointed out in the affidavit of John Falconer, Willard A. Morris, Administrator of the State Administrative Board of Election Laws has indicated that it would not be unduly inconvenient for the various election boards to count and validate additional signatures collected by the Bradley campaign and submitted to the county boards by July 1, 1976.

12. Unless defendants are enjoined from refusing to place the name of Bruce Bradley on the ballot, he will suffer irreparable harm. If he is forced to remain an uncertified candidate pending resolution of this lawsuit, his publicity, if any exists, will center around this litigation, rather than the platform he represents. He will not be taken as a serious candidate until after a decision by the court, which will be too late for him to maintain an effective campaign. His lack of certification will have a deleterous effect on his ability to raise sufficient funds to conduct his campaign, and will affect both the quality and quantity of media coverage. It will also be difficult to maintain an adequate staff

since volunteers will be unwilling to donate their time to an uncertified candidate.

13. If the relief sought by the plaintiffs is not granted, the electorate will be precluded from voting, if they so choose, for Bruce Bradley in the general election. If the relief requested by the plaintiffs is not granted, affiant will be precluded from running for the office of United States Senate from the State of Maryland. If the relief requested by the plaintiffs is not granted swiftly, the Bradley campaign effort will be irreparably damaged and the affiant will be precluded from joining with others in the advancement of their political beliefs.

14. Unless the defendants are enjoined and restrained from the commission of the acts alleged herein, affiant will suffer great and irreparable damage as above-described.

BRUCE BRADLEY.

AFFIDAVIT OF JOHN FALCONER

City of Washington, District of Columbia, SS.:

JOHN F. FALCONER, being first duly sworn, deposes and says:

1. He is a Plaintiff in the above-entitled action.

2. This is an action for injunctive and declaratory relief which seeks orders from this Court declaring Maryland Election Code, Art. 33, Sec. 7-1 to be in violation of the United States Constitution and enjoining the Defendants from refusing to place the name of Bruce Bradley on the ballot for the general election to be held in November, 1976 for the Office of United States Senator from the State of Maryland.

3. He agreed in 1975 to become the Campaign Manager for Bruce Bradley in his effort to get on the ballot as an independent candidate for the Office of United States Senator from Maryland. As Campaign Manager, he is intimately familiar with the development of the campaign and with the events surrounding

the attempt by Bruce Bradley to gain a place on the ballot by means of the nomination by petition process.

4. In his duties as Campaign Manager, he consulted the relevant Maryland Statute governing the nomination by petition process. He determined that, pursuant to Art. 33, Section 7-1 of the Maryland Election Code, 3% of the registered voters of the State of Maryland must sign nominating petition sheets, that onerous technical requirements surround the petition signing process, and that the signatures must be filed by March 8, 1976.

5. In light of the burdensome requirements placed on independent candidates by the nomination by petition process, he immediately began campaign organization.

6. Of immediate concern was the recruitment of persons to seek signatures for the petitions. This task proved very difficult as a direct result of the early filing deadline and the concomitant requirement that petitioning begin early. Very few persons could feel the immediacy of collecting signatures in the Fall and Winter of 1975 for an election to be held in November, 1976.

7. The burden of collecting signatures at a time months out of synchronization with other political campaigns took a heavy toll on the campaign organization. During the petition gathering period, the campaign recruited and lost three petition chairmen, two schedulers and five county chairmen. The common denominators for the loss of these persons were first, the pressures resulting from coordinating the collection of signatures during the winter, out of doors, in adverse weather conditions and, second, the frustration of expending large amounts of effort during a time period remote from the general election in an unnoticed campaign. The absence of recognition by the media of the candidate and of the signature gathering effort, which was due in part to the remoteness of the campaign activity from the general election, also took its toll on campaign moral. It should be noted here that

the campaign is presently receiving numerous telephone calls from persons who desire to work for the campaign on a voluntary or salaried basis in positions such as field workers, secretaries and press officer.

8. In addition to staff problems, the campaign experienced severe problems in obtaining media coverage. Litterally hundreds of telephone calls were made in an attempt to gain publicity for the campaign. The normal response was that the media would cover the Bradley campaign during the primary election campaigns. The primary election follows the filing deadline for petitions by more than two months.

9. A specific example of the problems of media coverage concerns James Rowland, reporter for the *Washington Star*. When the campaign approached Mr. Rowland to discuss coverage of campaign and petitioning activities, Mr. Rowland indicated that the campaign would be covered along with the party primary elections or when the petitions were submitted by the Bradley campaign to the local election boards, not during the signature gathering period, when media coverage was essential.

10. This lack of media coverage was damaging in several respects. First, campaign morale was severely hurt. Second, the lack of media coverage directly hampered fundraising. Third, and most obviously, the electorate was not made aware of Mr. Bradley's candidacy. This, in turn, hindered the petition gathering efforts since petitioners had to explain to potential signators what the petition process entailed and what Mr. Bradley "stood for".

11. Fundraising is extremely difficult in any campaign. However, that difficulty is multiplied where the funds must be raised to meet current expenses in a time period remote from the general election or the primaries, when the electorate is not politically aware of the upcoming elections, where media coverage is absent and when issues for the election have not been clearly identified.

13. Campaign fundraising figures indicate that receipts of contributions were up 71% in 1976 over those in 1975. Further, the 45-day period following the March 8 deadline for the filing of petitions was the most productive period to date for fundraising purposes. This increase in contributions was due in large part to an increase in political activity in general as the primary election date approaches and was due to the publicity received by Mr. Bradley when his petitions were filed.

14. The physical act of gathering petitions during the winter months is a difficult one. The number of persons present in public places is minimal and where such persons are approached by petitioners, it is a burden for the potential signator to stop and listen to the petitioner. In addition, it should be noted here that only two of fourteen enclosed shopping malls contacted by the campaign would allow signature gathering within the mall. The adverse weather conditions, the winter flu epidemic, the Thanksgiving and Christmas holidays, school examinations, combined with the general factors of the absence of media coverage and low campaign morale caused severe problems in obtaining and maintaining an effective petitioning staff. Indeed, the campaign was forced to resort to hiring persons to collect signatures.

15. In sum, the filing deadline of March 8, 1976 forced the campaign to collect signatures during an extremely difficult period of time — one which was remote from the election, when political interest and awareness was low and during adverse weather conditions.

16. Despite these problems, the campaign was able to collect 53,239 signatures by March 8, 1976, using its utmost efforts. However, it has been learned from the State Administrative Board of Election Laws that numerous signatures submitted were found "invalid" for a variety of reasons. For example, on investigation, it was discovered that hundreds of signatures were found invalid in the Baltimore City/Baltimore County area (including entire petition sheets), because a signator whose residence was in one jurisdiction had

signed a nominating petition for another jurisdiction. This resulted, no doubt, from confusion on the part of the signators over their residence, which was due in part to the physical proximity of these two areas, the urban homogeneity of the areas, and confusion caused by zip code and mailing address similarity in the Baltimore City/Baltimore County area. Indeed, the Baltimore County Board of Elections Office has a Baltimore, Maryland address.

17. Numerous other signatures were declared "invalid" for violations of other technical requirements of Sec. 7-1. Every reasonable precaution was taken to assure that signatures were gathered only from registered voters of the State of Maryland and that every signature was made in the proper form. Each petitioner was given explicit oral and written instructions to aid the petitioner in properly gathering signatures. Indeed, each petitioner was instructed to preface the request for a signature by asking the individual, "Excuse me please. Are you a Maryland registered voter?" Explicit instructions were given to each petitioner describing both the petitioners' duties and the signators' duties. Despite these elaborate precautions, numerous signatures were declared invalid for technical and other reasons.

18. The totality of technical and administrative requirements of the nomination by petition process, complicated by the burdens above-described of operating a campaign and soliciting signatures in a time period remote from the primary or general election date caused extreme hardship in garnering a number of signatures sufficient to comply with Sec. 7-1 of the Election Code.

19. By letter of April 15, 1976, from the State Administrative Board of Election Laws, signed by Willard A. Morris, Bruce Bradley was notified that an insufficient number of "valid" signatures has been submitted to the local election boards and that the name of Bruce Bradley would not appear on the ballot in the general election. *The Washington Star* published an article concerning this refusal to place Bruce

Bradley's name on the ballot. The article, which is appended to this affidavit, further points out the onerous requirements of the Maryland law as compared to other states' requirements.

20. Subsequent to that notification, affiant had several discussions with Willard Morris concerning the effect of the refusal to place Bruce Bradley's name on the ballot, the possibility of reaching an accommodation on this issue, and the necessity for litigation. During these discussions, Willard Morris stated that it would not be unduly burdensome or inconvenient for the county election boards and the State Administrative Board of Election Laws to count and validate additional signatures which the Bradley campaign might solicit and submit if those signatures were received by the local boards on July 1, 1976.

21. Subsequent to receipt of Mr. Morris' letter referred to above, Bruce Bradley's attorney was in contact with the office of the Attorney General for the State of Maryland. The possibilities of reaching an accommodation in the absence of litigation were discussed. On April 26, 1976, it was learned that such an accommodation could not be reached, and the decision was made to institute this suit.

22. If the plaintiffs here do not receive the relief requested in a very brief period of time, the campaign will be irreparably damaged. A non-certified candidate who has pending a lawsuit which may help place him on the ballot is not the type of candidate who receives media attention, donations or volunteer help in running his campaign. Indeed, the campaign has received calls from potential contributors who will donate only after Mr. Bradley is officially on the ballot. An independent candidate faces great difficulties in effectively running a compaign in Maryland due, in part, to the entrenched nature of the two-party system here. If the Plaintiffs here receive the requested relief in August or September, it will be too late to allow the candidate to run his campaign effectively. The campaign, the candidate and the Plaintiffs here will be irreparably damaged.

23. Affiant personally signed a petition in support of the candidacy of Bruce Bradley. To his knowledge, the signature of the affiant was declared valid by the Montgomery County Election Board and was counted by the State Administrative Board of Election Laws for purposes of determining the sufficiency of the number of signatures appended to petitions filed in support of the candidacy of Bruce Bradley.

24. If the relief requested by the Plaintiffs is not granted, affiant will be precluded from voting for Bruce Bradley in the general election. If the relief requested by the Plaintiffs is not granted swiftly, the campaign effort will be irreparably damaged and affiant will be precluded from supporting the candidate of his choice and will be precluded from joining with other in the advancement of their political beliefs.

25. Unless the Defendants are enjoined and restrained from the commission of these acts, affiant will suffer great and irreparable damage as above-described.

JOHN F. FALCONER.

The Washington Star Wednesday, April 21, 1976

A Candidate Against the Odds in Maryland

By Michael Kiernan
Washington Star Staff Writer

If Bruce Bradley were trying to get himself elected to the U.S. Senate from Virginia, instead of from Maryland, he not only would be several thousand dollars richer but he'd be assured of a place on the ballot this November.

As it is, Bradley will have to win a major court decision to get on the ballot in Maryland.

The reason: Bradley is an independent and Maryland happens to have one of the toughest state filing laws for independent candidates.

Bradley has gone to considerable lengths to prove he is a serious candidate, but Maryland election officials

have informed him he's not eligible to run for the Senate seat now held by Republican J. Glenn Beall Jr.

BRADLEY COLLECTED 42,049 signatures of registered Maryland voters — or more than four times what the law requires in Virginia — trying to get on the Maryland ballot. And he had to turn in the signatures to the state's election board on March 8, the earliest filing deadline for independent candidates in all 50 states.

In contrast, Virginia Sen. Harry F. Byrd Jr., who won re-election in 1970 as an Independent, needs to file only 9,007 signatures this June to qualify to run again as an Independent in this year's general election.

And Virginia is not the easiest state in which to run as an Independent. Bradley aides pointed out yesterday that Massachusetts requires only 1,000 signatures and New York, which has four times as many voters as Maryland, requires only 20,000 signatures.

During the last three weeks before the March 8 deadline, Bradley began hiring scores of college students to circulate petitions for him and agreed to pay 17 cents for every signature collected.

Under Maryland law, Bradley needed 51,135 signatures — three percent of the state's 1.7 million registered voters.

HE SUBMITTED some 53,000 names, but election officials threw out 11,000 signatures as invalid.

Bradley's campaign manager, John Falconer, charged yesterday that many signatures were ruled invalid because registered voters signed petitions in counties where they weren't residents.

"This was especially true in the Baltimore area, where Baltimore County residents signed Baltimore City petitions and vice versa."

Falconer, who estimates that Bradley's campaign has spent some $9,000 so far trying to get on the ballot, said Bradley would go to court to challenge the state filing law. He will argue that election officials should have given the candidate more time to collect the 51,000 names.

Willard Morris, state administrator of election laws, said yesterday he was "sympathetic" to Falconer's arguments.

Two years ago the filing deadline for an independent candidate running against Maryland's other senator, Charles McC. Mathias, was July 1, Morris noted.

BUT THE DEADLINE was set almost four months earlier this year, Morris said, because the state presidential primary is being held on May 18. Two years ago, in a non-presidential election year, the state primaries were held in September.

Morris, however, defended the high number of signatures Maryland requires. Other statewide candidates, including George Wallace in 1968 running as a presidential candidate, had been able to comply with the requirement, he noted.

AFFIDAVIT OF SUSAN MADISON

City of Washington, District of Columbia, ss:

SUSAN MADISON, being first duly sworn, deposes and says:

1. Her name is Susan Madison. Her current address is 2638 39th Street, N.W., Washington, D.C. 20007.

2. She is a member of the campaign staff of Bruce Bradley and has worked for the campaign since September, 1975, in an attempt to have the name of Bruce Bradley placed on the ballot in the general election to be held in November, 1976 for the office of United States Senator and to help Mr. Bradley conduct an effective campaign. In addition to other duties, she acts as scheduler for Mr. Bradley.

3. In September and October, 1975, she began making calls to various organizations and individuals to arrange for appearances for Mr. Bradley. She encountered numerous problems in an attempt to schedule those appearances, due in large part to the early date at which the campaign began its efforts which, in turn, was premised on the early filing

deadline for nominating petitions for independent candidates in Maryland.

4. As a general rule, she explained to her target groups the petition process that an independent candidate must go through. These groups were sympathetic to the plight of the campaign, but they were unable to change previously scheduled dates to allow an appearance by an independent candidate. Many of these groups had already scheduled political meetings during the months of March, April and May, 1976 — a time period immediately preceding the party primary elections. The following are examples of her efforts.

5. In January, 1976, she spoke to Mrs. C. J. Plieger, president of the Bethesda-Chevy Chase Women's Club in order to schedule an appearance by Mr. Bradley. Mrs. Plieger informed the affiant that they could not have a political speaker attend their meeting in the absence of other candidates. Mrs. Plieger indicated that she would attempt to schedule a forum in the spring at some time before the May 18 primary when the club members would be more interested in and aware of the local political scene. This club has approximately 800 members.

6. She made numerous attempts to schedule Mr. Bradley for an appearance at the Jewish Community Center in Rockville, Maryland. In January, 1976, she spoke to Mr. P. Kuperburg from the Center and indicated to him that due to the March 8 filing date, an early appearance by Mr. Bradley was imperative. He stated that in fairness to all other candidates, he could not allow one candidate to speak in the absence of others and that Mr. Bradley would have to wait until the Center's "candidates' night" which would be held in April, 1976. The Jewish Community Center has 13,000 members.

7. She contacted Lois O. Stoner, President of the Montgomery County League of Women Voters to schedule an appearance by Mr. Bradley. Ms. Stoner responded she could not even have a short meeting with Mr. Bradley because she felt she had to remain uncommitted until the League's candidates' night was

held in the Spring, shortly before the primary election. Subsequently, Mr. Bradley was invited to attend a League meeting on May 5, 1976. This date is, of course, too late to aid the petition process.

8. On December 5, 1975, she attempted to schedule an appearance by Mr. Bradley before the Wheaton Senior Citizens Group. Barbara Dalman, President of the group, told the affiant that any appearance by Mr. Bradley would have to be delayed until the Spring when the group would try to sponsor a forum for all candidates. Mr. Bradley has been invited to speak before the group on May 1.

9. In September, 1975, she contacted the Silver Spring Chamber of Commerce to schedule an appearance for Mr. Bradley. Beatrice Chaney of that organization told the affiant that before the primary, a group of candidates would be invited to speak, but that they could do nothing concerning politics as early as September, 1975.

10. Of particular importance to the petition drive was contact and exposure to the students at the University of Maryland at College Park. A number of times during 1975, affiant spoke to the Student Government Association President and Vice President to arrange for Mr. Bradley to introduce himself and explain the petition process at one of their meetings. Nothing could be scheduled during December, 1975, January, February, or March, 1976. Since that time, Mr. Bradley has been invited to participate in a candidates' week scheduled for the week of April 19 — nearly seven weeks after the end of the petition process.

11. On December 4, 1975, Dean Yanchik of Loyola College in Baltimore, responding to the affiant's attempt to schedule an appearance, stated that he would welcome Mr. Bradley on campus to speak if the other candidates were invited. However, they were not planning to arrange this until a few weeks before the primary.

12. Since the passing of the March 8 filing deadline, numerous persons and groups have contacted the

Bradley campaign in order to schedule appearances. In addition to the requests noted above, the campaign was contacted by groups including but not limited to the Montgomery County Chamber of Commerce, Hagerstown Community College and Bowie High School. In addition, the campaign received requests after the petition filing deadline for campaign literature and biographical information concerning Mr. Bradley from WRC, NBC and a radio station, WFMD. The interest on the part of the media, citizens groups and educational institutions has increased markedly since the end of the petition gathering period as the date for the primary election nears.

SUSAN MADISON.

AFFIDAVIT OF MARK WINSTON

City of Washington, District of Columbia, ss.:

MARK WINSTON, being first duly sworn, deposes and says:

1. His name is Mark Winston. His current address is 9701 Fields Road, Gaithersburg, Maryland 20760.

2. He is a member of the campaign staff for Bruce Bradley.

3 Subsequent to the submission by Bruce Bradley of the petitions supporting his candidacy, affiant and Kevin Kulesha contacted most local county election boards and the election board for the City of Baltimore to determine, *inter alia*, the methods used by the boards in validating the signatures, the results of the validation, the instructions, if any, received by the local board from the State of Maryland, the date and size of any program to remove voters names from the lists of currently registered voters pursuant to Art. 33, Sec. 3-20 of the Maryland Election Code, and to determine the date and nature of the county voter registration drives.

4. It was determined, on information supplied to the local county election boards that:

a. The Election Board for Baltimore County declared "invalid" a signature which was signed "Mrs. Joseph H. Haut" and to which was subscribed the printed name "Edith D. Haut" since the technical requirements of Sec. 7-1 were not met.

b. The following counties, pursuant to Maryland Election Code, Art. 33, Sec. 3-20, removed the following numbers of registered voters names from the lists of registered voters. The voter "pull" occurred at the dates as below indicated and the voters were notified of this action as below described:

County	*No. Voters Pulled*	*Date of Pull*	*Notification To Voter*
Anne Arundel	4,800	January 1976	-By Mail
Baltimore City	12,000	Jan., Feb. 1976	-Not notified by March 8th
Cecil	1,300	Nov., Dec. 1975	-By Mail
Montgormery	14,000	Nov. '75-Jan. '76	-By Mail
Prince Georges	3,000	January, 1976	-Not Notified
Wicomico	1,200	January, 1976	-Information not available to campaign.

c. Voter registration drives were held in the following as follows:

Baltimore County — high school voter registration drive completed March 31;

Montgomery County — voter registration campaign from April 8 to 19;

Prince Georges County — high school registration drive from March 15-19.

d. The county election boards varied greatly in the amount of effort which would be expended in searching and cross-checking files in order to locate on the voter registration lists the signatures which were appended to nominating petitions. Some jurisdictions such as Baltimore City did not cross-check various files to locate signatures, even if those files were readily available, whereas other counties, such as Cecil County, checked various files to locate a signature.

e. The counties varied greatly in their determinations whether a particular signature was in the proper technical form required by Art. 33, Sec. 7-1 of the Maryland Election Code. Some counties would allow the use of nicknames and initials, while others invalidated signatures for very technical reasons.

5. A more comprehensive, complete and explicit description of the county validation process can be supplied in a supplementary affidavit, if such information is needed. The brevity of this summary is due to time restraints surrounding the institution of the above-entitled suit.

MARK WINSTON.

STATEMENT OF PROFESSOR RICHARD SMOLKA

1. My name is Professor Richard G. Smolka and I am currently a Professor of Government at the School of Government in Public Administration, the American University, Washington, D.C. My academic background, employment history and other related facts are set forth on the attachment to this Statement.

2. I am generally familiar with the statutory and other legal requirements of virtually all of the fifty states relative to the manner in which candidates may have their names placed upon general election ballots by the filing of nominating petitions. In particular, I am familiar with the requirements of Maryland law relative to the nomination of independent candidates by petition, which provisions are set forth primarily in Section 7-1 of Article 33 of the Annotated Code.

3. While the number of signatures required in Maryland (3% of the registered voters eligible to vote for the office in question) is higher than the number required in many states and while independent candidates are required to file their petitions at the same time that all candidates seeking to run in primary elections are required to file their certificates of candidacy, the requirements of the Maryland statute are substantially more liberal than the requirements imposed by many other states in the following respects:

(1) The signers of nominating petitions need not declare in any way their intention to vote for the candidate in question and are in no way precluded by their signing of the petition from voting at a primary election or at the general election in any way they wish.

(2) Persons who sign nominating petitions may be members of a party required to nominate candidates by primary election and may vote at such primary election notwithstanding their having signed a nominating petition.

(3) There is no time limitation whatsoever with respect to the obtaining of nominating petition signatures, and accordingly an independent candidate may begin circulating nominating petitions well in advance of the deadline for their submission.

(4) The person giving the affidavit to the effect that the signers of the petition are registered voters need not himself be a registered voter or a resident of the State of Maryland.

4. A candidate who seeks to obtain signatures on a nominating petition either in the heat of a primary election campaign or following the holding of the primary election will encounter special difficulties which he would not encounter when circulating petitions prior to the time that the primary campaign reaches an active stage. As an election campaign reaches the active stage, voters begin to crystalize their views with respect to the various candidates running for office and, for example, once a voter has decided who he will vote for in his party's primary election for the office of United States Senator, it will be substantially more difficult to persuade that individual to sign a nominating petition for an independent candidate for that same office. Regardless of what the circulators of the petition may say to the voters, the voters will tend to view their signing of such a petition as a commitment of some kind to the independent candidate. They will find this commitment more difficult to make *if they have already decided to vote for a particular person as their party's nominee* for the same office. This resistance on the part of the voter and would-be signer of a

nominating petition increases following the primary election itself when the voter has expressed his choice by actually pulling the lever for the candidate who he wishes to be his party's nominee. This level of voter resistance is not present prior to the active stages of a primary election campaign when voters have not yet made up their minds. Indeed, at this early stage it is frequently not even known which candidates will be seeking the office. For these reasons, the period of time before the active commencement of the primary election campaign is, in many respects, the period during which an independent candidate can most easily obtain signatures on his nominating petition. In essence, he then has first crack at the voters.

5. In many respects the candidate seeking to obtain signatures on a nominating petition has a far easier route to the general election ballot than candidates who must run in primary elections. First, the independent candidate does not have to defeat any particular opponent or opponents in order to gain a place on the general election ballot. Secondly, the number of signatures which he must obtain is almost invariably less than the number of votes which a candidate in a primary election must obtain in order to gain his party's nomination. Third, the independent candidate, at least in Maryland, is given a longer period of time in which to "campaign" for his nominating signatures — since the candidate in a primary election must focus his campaign during a period immediately prior to an election so as to have the greatest impact on the voters, while the independent candidate need only approach and appeal to a particular voter at a single moment in time (the moment when he asks for the signature) of the candidate's own choosing and may later return to that same voter to try again. Fourth, the choice made by a voter in a primary election is an irrevocable one in which he must choose one among several candidates, whereas the choice made by a voter signing a nominating petition is not irrevocable since the voter may withdraw his signature prior to the filing of the petition or may refuse to sign once and then sign when later approached and may, in any event, still vote in his

party's primary election. The fact that the choice is not irrevocable in the case of the signing of a nominating petition makes it easier to persuade the voter to exercise that choice in favor of the candidate. Fifth, the primary election candidate must get his supporters to go to the polls to vote for him whereas the petition candidate can go to the voters in their homes or elsewhere to get their voter. And finally, Maryland law does not control or restrict contributions or expenditures relative to the circulation of nominating petitions but does apply to primary election contributions and expenditures.

6. In many cases, especially where the general election will be more vigorously contested than the primary election, it is extremely important from the point of view of candidates conducting primary election campaigns that they know who their opposition or potential opposition will be in the general election. Because of the dollar limitations imposed on campaign contributions under state and federal law, and given the need of any candidate to spend those funds which he has raised in a prudent manner and at a time when their expenditure is most needed, a primary election candidate must know the magnitude and nature of his opposition or potential opposition in the general election in order to make intelligent decisions relative to the solicitation of contributions and the expenditure of monies during the primary election campaign. If a strong independent nominee will appear on the general election ballot, a candidate in a primary election may understandably exercise more restraint in soliciting contributions and expending funds so that he may save sufficient resources for an anticipated vigorous general election campaign. If, on the other hand, no independent nominee is to appear on the general election ballot and the opposition party is not expected to produce a strong candidate, then a primary election candidate may devote greater resources and greater effort to the primary campaign. Similarly, a candidate in a primary election may alter his approach to issues in that campaign because of the views of or appeal of a known independent candidate.

Conversely, the need of the independent candidate to know who his general election opponent will be at the time he is circulating his nominating petition is not nearly as great. Under Maryland law, contributions given and expenses incurred in the process of gathering nominating petition signatures are not governed by the Fair Election Practices Act since that Act only becomes operative at the time a certificate of candidacy is filed. Since the independent candidate is not running against any particular opponent, he is not as likely to be forced into taking fixed positions on issues which he might alter if he knew for certain who his opponents would be at the general election.

RICHARD G. SMOLKA.

STATEMENT OF WILLARD A. MORRIS

My name is Willard A. Morris. I reside at 909 Heron Drive, Silver Spring, Maryland. I am the State Administrator of Election Laws, having been appointed to that position September 10, 1969 and reappointed on July 1, 1975. The Board's offices are located at 210 Main Street, Shaw House, Annapolis, Maryland. I serve the State Administrative Board of Election Laws which is an independent agency of the Executive Department. The Board has supervision over the conduct of elections and registration throughout the State. The Board receives certificates of candidacy for all State-wide Congressional, Judicial and all other offices that are voted on by the people of more than one county or the City of Baltimore.

From 1949 until 1963, I was the Democratic precinct chairman of the 15th precinct, 13th election district of Montgomery County. In 1954, I was elected to the Democratic State Central Committee and served until 1958. In 1954, I was appointed by Governor McKeldin as a Democratic member of the commission to study the laws governing the Washington Suburban Sanitary Commission and recommend reorganization of the Commission. In 1955, I was appointed as a member of

the Washington Suburban Sanitary Commission and served as a member and Vice Chairman of that Commission until 1963.

In June, 1963 I was appointed Majority Clerk of the Montgomery County Board of Supervisors of Elections by Governor Tawes and served in that capacity until 1967. In 1964, I was instrumental in organizing the Maryland Association of Election Officials and was elected as its first president and served in that capacity until 1968.

In 1965, I was appointed by Governor Tawes to the legislative subcommittee on elections to recodify the election code. The election code, Article 33 of the Annotated Code of Maryland, was enacted in the 1967 legislative session and in June of that year I left the election board and returned to my own business which I had established in 1955 and maintained until 2 years ago, when I sold it to my son.

I am thoroughly familiar with campaign organization and financing, having served in the capacity of campaign treasurer, sub-treasurer, campaign chairman or co-chairman of every campaign, every two years from 1954 to 1966.

During 1967, I continued to work with the Legislative Council's committee on elections in redrafting Section 26 of Article 33 which is now known as the Fair Election Practices Act. This Act was passed by the legislature in 1968.

In 1968, as a result of the nominating petitions filed by Governor George Wallace, for President of the United States, and by George P. Mahoney, for United States Senator, I worked closely with the Secretary of State to redraft the section of the election code titled "Nominations by Petition" which is Section 7-1 of Article 33. That Section as it presently stands was enacted by the General Assembly in 1969. See attachment describing the 1968 petition submissions and the attendent problems. In 1969, the General Assembly also enacted legislation which created the State Administrative Board of Election Laws and transferred to the

Board the duties of the Secretary of State with regard to elections.

I am thoroughly familiar with the requirements of Maryland law relative to nomination of independent candidates by petition, having been involved with this process since the 1968 elections and having reviewed and filed many candidates through the petition route.

Chapters 554 and 436 of the Acts of 1969 and 1970 respectively made numerous changes in the section "Nominations by Petition". Chief among them was the new requirement that a person could sign only a petition that was clearly labeled with the county of which the voter was a resident. It was no longer necessary to include the districts and precincts of the voter because the election board would verify the signatures. The petitioner is required to file his papers with the board for the county or the City of Baltimore in which the signers of the paper are alleged to reside on or before 9:00 P.M. on the Monday which is 10 weeks or 70 days before the day on which the Primary Election is to be held. This is the same date on which party candidates file their certificates of candidacy. The local boards receive the nominating petitions from the candidate or his agents and issue him a receipt which he must file with the State Board together with his certificate of candidacy and his filing fee for the office he seeks. After the deadline for filing the certificates of candidacy or nominating petitions, the local boards have 5 weeks or 35 days in which to certify the signatures and deliver the petitions to the State Board. Chapter 436 repealed Section 7-2 requiring the publication of the petitions.

Although the process of verification may vary slightly from board to board, the intent of the instructions are the same in all jurisdictions.

1. All local boards are instructed that for a signature to be valid, the signer must be a registered voter as of March 8, 1976.
2. A valid endorsement shall consist of a signed name, the printed name and the residence address.

3. The signature may be as a person normally signs his name with his or her proper surname.
4. The printed name shall give the same surname, a full first name and either the first full or initials of a middle name are preferred, however an abbreviated first name is acceptable provided the individual can be identified by his address. A female must use her own given name plus the legal surname.
5. Each name shown must have attached, the residence address of the voter. If the address on the petition does not agree with the address that they have on their master cards they use a signature comparison as guidance in establishing the identify. They must be satisfied that the person is still the same person but may be living at a different address.
6. A change of address on a petition does not invalidate the signature.

The petitioning candidate and his petition circulators bear a certain responsibility to provide data by which signatories can be readily checked. This responsibility is implicit in the specific provisions of the law, Article 33, Section 7-1(c) of the Maryland Code which requires the signatory to print as well as sign his name.

Bradley Petitions

The candidate submitted 53,239 signatures to 21 of the 24 local election boards. Of all the signatures submitted, 94% went to seven counties, namely Anne Arundel, Baltimore City, Baltimore, Harford, Howard, Montgomery and Prince George's. Of these signatures, 20.8% were invalid.

From my personal knowledge, I can safely state that the rate of signature invalidations on nominating petitions and petitions to referendum has historically run from a low of 15% to a high of over 50%.

When Mr. Bradley first visited the Board Office and spoke to me with regard to the number of signatures he

should obtain in order to safely get his name on the ballot, I told him that he should shoot for a minimum of 20% over what would be required and possibly to go to 25%. On later visits from Mr. John Falconer, I repeated the same quote "that he should shoot for 20 to 25% above the required number of valid signatures." Despite the percentage that was suggested as a safe margin, Mr. Bradley submitted only 2,084 signatures over the number of valid signatures needed, or 4.1%.

After reading the complaint in its entirety together with my staff we reviewed hundreds of pages of the petitions in order to answer some of the questions of the complaint.

1. We could not locate any page which was entirely invalidated because of one invalidated signature with the exception of pages on which there was only a single signature. The local boards are well aware of the law that says that you cannot invalidate a whole page of signatures simply because of one invalid signature.
2. We found pages that have been counted with valid signatures on which the notary seal appeared but there was no notary signature or date. The State Board staff is experienced in invalidation of petitions to referendum and the requirements for verification and validation. There were many signatures on this petition that the State Board staff would have invalidated, however, they have been validated by the local boards whose responsibility it was in this case and no additional signatures were invalidated by the State Board office.

Attached to this statement is a list of independent candidates who have qualified for places on the general election ballot over the last 10 years, with particular reference to statewide offices and other offices with large constituencies. It should be noted that local offices, those strictly on a county level, are not included in this summary due to the fact that those candidates file locally and the petitions are retained locally.

I have also attached to this statement the election returns for elections in which these independent candidates have qualified showing their opponents or the prospective opponents in a primary and their opponents in the general elections.

I have reviewed the statement of Professor Richard Smolka and although I am not as familiar with the petition requirements of other States, based on my general knowledge of the procedures and my experience in the electoral process in Maryland generally, I am able to agree with Professor Smolka's statements and the conclusions expressed therein.

WILLARD A. MORRIS.

ATTACHMENT

1968 PETITIONS — STATE WIDE OFFICES

No Presidential Primary in 1968

Petitions filing deadline Saturday, July 27, 1968

45 days before primary election

Registered voters January 1, 1968	1,397,852	
3% valid	41,936	
Petitions filed July 26, 1968 by:		
Wallace for President		
Total signatures	69,712	83.5%
Valid signatures	58,271	
Invalid signatures	11,441	16.5%
Petitions filed July 29, 1968 by:		
Mahoney for U.S. Senate		
Total signatures	75,241	83.1%
Valid signatures	62,542	
Invalid signatures	12,699	16.9%

Wallace paid $16,822.00 for publication of petitions

Mahoney paid $10,160.00 for publication of petitions

In 1968, Section 7-1(e) of Article 33 provided that "If the adequacy of any certificate of candidacy is questioned in writing by any 10 qualified voters, it shall be the duty of the several boards in the jurisdiction in which the signers are registered voters to verify the number of legitimate signatures; . . .". Requests for verification of both petitions were immediately submitted by the required number of voters.

The petitions filed in both cases contained pages with names in several counties, making the certification difficult.

The Secretary of State immediately hired additional help to sort approximately 15,000 pages. Each page was then photocopied as many times as there were various counties on the page. This was a tedious, costly and time consuming process.

After completion of the sorting the photocopies were dispatched to the 24 local boards by State Police on or about August 26, 1968.

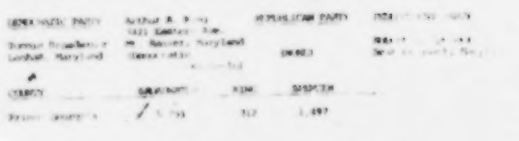
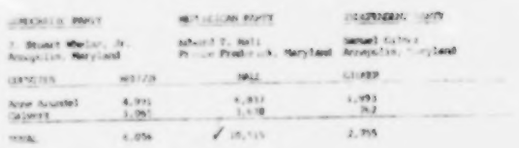
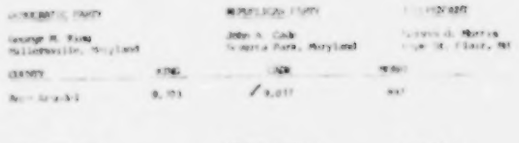
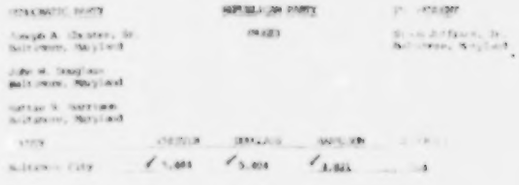
Photocopies do not reproduce various colors of ink, which resulted in confusion by the boards, in many cases as to whether or not validation should be made.

Certification of the ballot is required at least 30 days before the election. With the primary election being conducted September 10, 1968, the boards were extremely hard pressed to make validations in time for the certification of the ballot by the Secretary of State. The General election was held on November 5, 1968. The ballot was certified on October 4, 1968, just 31 days before the election.

BEST COPY AVAILABLE

INDEPENDENT CANDIDATES

1974 ELECTION

NAME OF PETITION CANDIDATES	RACE	DISTRICT	PRIMARY ELECTION CANDIDATES	GENERAL ELECTION CANDIDATES & RESULTS
Robert A. Spencer	State Senate	L. D. 25	Tommie Broadwater, Jr., Dem. Arthur A. King, Dem. Ernest H. Mulligan, Dem. REPUBLICAN PARTY (NO CANDIDATE FILED)	
Samuel A. Gilmer	State Senate	L. D. 30	Casey Hughes, Dem. John Hurley, Dem. J. Stuart Whelan, Jr., Dem. Edward T. Hall, Rep. REPUBLICAN PARTY (NO CONTEST)	
Marvin O. Morris	State Senate	L. D. 33	J. Nelson Clark, Dem. George M. King, Dem. John A. Cade, Rep. REPUBLICAN PARTY (NO CONTEST)	
Simon Jeffries, Jr.	House of Delegates	L. D. 45	Freddie E. Bee, Dem. Leonard E. Cannady, Dem. Joseph A. Chester, Sr., Dem. Johnnie Clinton, Dem. John W. Douglass, Dem. Titus Garnett, Jr., Dem. Hattie N. Harrison, Dem. Patricia Jones McDaniel, Dem. Nathaniel J. McFadden, Dem. Mary B. Ross, Dem. REPUBLICAN PARTY (NO CANDIDATE FILED)	

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INDEPENDENT CANDIDATES

1968 ELECTION

NAME OF PETITION CANDIDATES	RACE	DISTRICT	PRIMARY ELECTION CANDIDATES	GENERAL ELECTION CANDIDATES & RESULTS
George C. Wallace	President of the United States	State-Wide	(No Presidential Preference Primary)	(See attached marked "A")
George P. Mahoney	United States Senate	State-Wide	Charles McC. Mathias, Jr., Rep. Harry Lee Sims, Rep. Paul F. Wattay, Rep. Daniel B. Brewster, Dem. Walter G. Finch, Dem. Richard R. Howes, Dem. Ross Z. Pierpont, Dem.	(See attached marked "C")
		1966 ELECTION		
Hyman A. Pressman	Governor	State-Wide	Moryan L. Amalno, Dem. Andrew J. Easter, Dem. Thomas B. Finan, Dem. Charles J. Luthardt, Sr., Dem. George P. Mahoney, Dem. Clarence W. Miles, Dem. Ross Z. Pierpont, Dem. Carlton R. Sickles, Dem. Spiro T. Agnew, Rep. Andrew John Groszer, Jr., Rep. John Joseph Harbaugh, Rep. Henry J. Laque, Jr., Rep. Louis R. Milio, Rep.	(See attached marked "E")

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MARYLAND

GENERAL ELECTION RETURNS

November 5, 1968

FOR PRESIDENT OF THE UNITED STATES

REPUBLICAN PARTY	DEMOCRATIC PARTY	AMERICAN PARTY
Richard M. Nixon 810 Fifth Ave. New York, N. Y.	Hubert H. Humphrey Waverly Minnesota	George C. Wallace 3600 Farrir St. Montgomery, Ala.
AND	AND	AND
Spiro T. Agnew Government House Annapolis, Md.	Edmund S. Muskie Waterville Maine	S. Marvin Griffin 809 Lamar St. St. Bainbridge, Ga.

COUNTIES AND BALTIMORE CITY	NIXON	HUMPHREY	WALLACE
Allegany	13,561	13,227	5,122
Anne Arundel	36,557	25,381	15,687
Baltimore	108,930	80,798	29,283
Calvert	1,946	2,032	1,471
Caroline	3,120	1,697	1,414
Carroll	11,888	4,658	3,085
Cecil	6,462	4,517	3,25[illegible]
Charles	4,645	4,247	3,17[illegible]
Dorchester	4,183	2,714	3,217
Frederick	13,649	8,316	4,348
Garrett	4,021	1,933	818
Harford	15,799	9,914	4,978
Howard	9,957	5,752	2,796
Kent	2,946	2,243	1,146
Montgomery	84,651	92,026	14,726
Prince George's	73,269	71,524	32,867
Queen Anne's	2,888	1,969	1,298
St. Mary's	3,348	3,280	2,547
Somerset	2,829	2,319	1,899
Talbot	4,902	2,609	1,372
Washington	16,050	11,266	6,737
Wicomico	8,707	5,392	4,356
Worcester	3,541	2,046	1,871
BALTIMORE CITY	80,146	178,450	31,288
GRAND TOTAL	517,995	538,310	178,734

MARYLAND

PRIMARY ELECTION RETURNS

SEPT. 10, 1968

DEMOCRATIC PARTY

	Daniel B. Brewster Glyndon, Md.	Walter C. Finch 114 S. Rollins Rd. Baltimore, Md.	Robert Z. Peterson 5614 Enderly Rd. Baltimore, Md.
	Route 2, Box 111 Edgefield Drive	Rt. 1 Silver Spring, Md.	
	WARD:	BREWSTER	FINCH
	87	2,753	252
	234	7,872	1,144
	326	21,350	4,846
	22	560	163
	5	434	64
	65	1,328	257
	127	1,307	182
	49	1,531	522
	31	972	218
	50	2,857	405
	22	2,405	100
	67	4,071	763
	77	1,463	345
	12	472	79
	381	18,333	1,568
	2,160	29,127	3,256
	18	867	99
	22	1,160	246
	9	388	73
	22	508	100
	149	2,338	620
	30	1,472	191
	41	440	133
	766	47,493	4,186
	4,790	150,681	19,829

	Lee Sims New Hampshire Ave. Silver Spring, Md.	Paul F. Watkins 10120 Edgefield Drive Adelphi, Md.
	WARD:	SIMS
	87	715
	234	609
	326	1,362
	22	37
	5	20
	65	309
	127	178
	49	273
	31	65
	50	456
	22	191
	67	302
	77	225
	12	36
	381	2,[illegible]
	2,160	1,079
	18	22
	22	57
	9	49
	22	42
	149	834
	30	103
	41	15
	766	1,286
	4,790	11,927

REPUBLICAN PARTY

	Charles McC. Mathias, Jr. Box 116, RFD 4 Frederick, Md.	Paul F. Watkins 10120 Edgefield Drive Adelphi, Md.
	WARD:	MATHIAS
	87	4,817
	234	3,167
	326	8,331
	22	[illegible]
	5	[illegible]
	65	1,819
	127	596
	49	608
	31	472
	50	[illegible]
	22	2,128
	67	2,479
	77	2,[illegible]
	12	[illegible]
	381	13,216
	2,160	10,[illegible]
	18	[illegible]
	22	260
	9	293
	22	498
	149	4,087
	30	682
	41	226
	766	8,092
	4,790	66,777

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FOR UNITED STATES SENATOR FROM MARYLAND

REPUBLICAN	DEMOCRATIC	INDEPENDENT
Charles McC. Mathias, Jr. RFD 2, Frederick, Md.	Daniel B. Brewster Glyndon, Md.	George P. Mahoney Owings Mills, Md.

COUNTIES & BALTIMORE CITY	MATHIAS	BREWSTER	MAHONEY
Allegany	15,390	10,953	3,572
Anne Arundel	34,979	24,719	12,188
Baltimore	105,558	69,956	33,691
Calvert	1,844	1,715	1,396
Caroline	2,515	1,759	984
Carroll	10,905	4,594	2,853
Cecil	5,456	4,925	1,742
Charles	3,992	4,161	2,533
Dorchester	3,485	2,992	2,283
Frederick	17,588	5,853	1,934
Garrett	4,085	1,478	764
Harford	15,045	10,042	3,875
Howard	9,521	4,551	2,438
Kent	2,511	2,065	888
Montgomery	105,456	62,484	10,476
Prince George's	76,073	64,635	18,018
Queen Anne's	2,425	1,944	940
St. Mary's	2,592	3,393	2,092
Somerset	2,550	1,996	1,231
Talbot	4,258	3,321	975
Washington	18,714	9,559	3,277
Wicomico	7,598	5,562	2,337
Worcester	3,128	1,885	943
BALTIMORE CITY	86,125	139,890	37,035
GRAND TOTAL	541,893	~~443,667~~ 443,819	148,467

1966 PRIMARY ELECTION RETURNS
SEPTEMBER 13, 1966
GOVERNOR OF MARYLAND

REPUBLICAN PARTY

Spiro T. Agnew
1146 Concordia Dr.
Towson, Md.

Louis R. Miller
2800 E.Ashland Ave.
Baltimore, Md.

Andrew John Grosser,Jr.
1014 Hartmont Rd.
Catonsville, Md.

John Joseph Harbaugh
327 Ferndale Rd.
Glen Burnie, Md.

Henry J. Laque,Jr.
6055 Belle Grove Rd.
Baltimore, Md.

DEMOCRATIC PARTY

Morgan L. Amalmo
16 E. Lake Ave.
Baltimore, Md.

George P. Mahoney
Owings Mills, Md.

Andrew J. Easter
6420 Belair Rd.
Baltimore, Md.

Clarence W. Miles
Queenstown, Md.

Thomas B. Finan
532 Washington St.
Cumberland, Md.

Ross Z. Pierpont
5602 Derby Rd.
Baltimore, Md.

Charles J. Luthardt,Sr.
Glen Burnie, Md.

Carlton R. Sickles
7111 Kempton Road
Lanham, Md.

COUNTIES AND BALTIMORE CITY	AMALMO	EASTER	FINAN	LUTHARDT	MAHONEY	MILES	PIERPONT	SICKLES	AGNEW	GROSZER	HARBAUGH	LAQUE	MILIO
Allegany	40	19	6,247	19	518	36	14	1,502	6,022	826	454	119	164
Anne Arundel	342	88	8,669	1,015	12,786	3,204	342	5,605	4,500	400	321	641	144
Baltimore	983	335	22,654	942	39,812	10,001	925	20,319	15,733	2,099	688	126	185
Calvert	12	11	826	21	1,398	67	3	254	295	36	49	26	17
Caroline	39	22	836	56	929	717	11	457	416	9	18	10	9
Carroll	81	33	1,397	118	1,412	554	143	1,056	3,040	382	109	134	59
Cecil	44	21	1,684	208	2,077	580	169	1,744	1,217	56	123	46	66
Charles	57	10	1,290	21	2,060	60	0	417	1,339	88	131	106	39
Dorchester	43	43	2,075	42	2,523	471	10	668	722	77	70	45	38
Frederick	99	37	3,581	122	1,301	349	68	1,570	3,440	370	198	171	121
Garrett	9	13	725	2	395	12	3	205	1,822	478	229	69	79
Harford	89	108	3,348	117	3,397	1,609	56	2,685	1,762	133	105	61	60
Howard	78	17	2,236	64	1,724	831	0	1,760	2,086	217	60	71	37
Kent	17	6	1,068	26	856	475	10	272	401	14	27	14	16
Montgomery	176	55	17,200	494	6,547	703	101	12,081	21,755	1,640	394	293	218
Prince George's	678	137	19,791	1,193	7,066	739	101	20,375	9,772	531	343	152	146
Queen Anne's	58	31	1,612	75	1,782	282	26	1,204	267	19	27	12	12
St. Mary's	42	25	1,550	27	3,679	51	13	1,170	496	41	34	67	28
Somerset	52	26	1,588	21	981	480	16	262	1,027	30	49	67	44
Talbot	37	47	1,104	46	1,593	960	27	401	649	41	39	22	27
Washington	106	148	3,718	55	2,206	278	26	2,787	4,289	763	222	134	70
Wicomico	62	35	2,797	82	1,633	1,211	35	1,207	1,359	103	52	41	47
Worcester	55	24	1,334	62	1,487	549	21	458	356	24	20	11	15
	3,199	1,290	106,056	4,818	97,262	26,219	1,614	49,458	82,795	8,527	3,762	2,411	-1,041
Baltimore City	2,849	808	28,160	2,517	41,284	15,083	2,697	97,453	12,766	1,460	4,560	954	1,318
Grand Total	6,048	2,098	134,216	7,335	148,446	42,304	4,311	146,507	98,731	9,987	4,322	3,365	2,277

EXCERPTS FROM TRANSCRIPT OF PROCEEDINGS

(T. 64) (Mr. Nilson) Mr. Bradley, when did you first determine to run for the United States Senate in 1976?

(Mr. Bradley) By determine, probably in the spring or summer of 1975, the spring of 1975.

(Mr. Nilson) Can you pin it down to a month?

(Judge Winter) Can you speak up a little, Mr. Bradley. The acoustics in this room leave something to be desired. I have a little trouble hearing you.

(Mr. Bradley) I'm sorry, April or May, 1975 would be accurate.

(Mr. Nilson) Had you thought about it before then, I mean, had you had it under advisement?

(Mr. Bradley) I had engaged before then in talking to others about running, but I had not, personally, decided at that time.

(Mr. Nilson) So, you had been considering it for, I (T. 65) take it, a number of months prior to April or May?

(Mr. Bradley) Certainly.

(Mr. Nilson) As early as January or February of 1975, you had considered it?

(Mr. Bradley) Yes.

* * * * * *

(T. 66) (Mr. Nilson) In the spring of 1975, at the time you were considering and finally deciding to run for the United States Senate, what was your perception as to the likely candidate or candidates in the Republican party primary for that position?

(Mr. Bradley) Could you rephrase that, please?

(Mr. Nilson) Did you expect that Senator Beall would seek the nomination of his party?

(Mr. Bradley) Definitely.

(Mr. Nilson) Did you view Senator Beall as a strong candidate?

(Mr. Bradley) Yes.

(Mr. Nilson) Did you have any expectations as to who might seek the nomination of the Democratic party for the United States Senate position?

(Mr. Bradley) Yes.

(Mr. Nilson) Who did you expect or did you consider as the possible candidate in the Democratic primary?

(T. 67) (Mr. Bradley) Congressman Sarbanes, former Senator Tydings, Governor Mandel and attorneys, Edward Bennet Williams.

(Mr. Nilson) Were there others whose names were being mentioned at that time as possibilities, Barbara Mikulsky, Attorney General Burch?

(Mr. Bradley) Yes.

(Mr. Nilson) Any others?

(Mr. Bradley) Probably there are some, but I can't recall them.

(Mr. Nilson) Did you view the Democratic field as a very strong field, as you looked at it in the spring of 1975, as containing a number of strong candidates?

(Mr. Bradley) Yes.

(Mr. Nilson) In fact, didn't you think that would be what might be called a real Donnybrook?

(Mr. Bradley) Depending on whether or not the Governor decided to run.

(Mr. Nilson) Do you think it has turned out to be a Donnybrook, albeit a two-man Donnybrook?

(Mr. Bradley) Not at all.

(Mr. Nilson) Do you continue to view Congressman Sarbanes and Senator Tydings as strong candidates?

(Mr. Bradley) I do.

(Mr. Nilson) Just a minute, please. There was some testimony offered in one of the other affidavits and some questioning earlier about the difficulties created by the fact that earlier in the year, and going back into (T. 68) 1975, the fact that the issues are a bit different then than they are now, I must confess, I'm still puzzled and I wish you would explain to me, if you

can, why that fact created a problem for you in going out and speaking to voters and stating your position on the issues in an effort to gain their support.

(Mr. Bradley) I believe that the issues and personalities both comprise the same work within which a political campaign takes place and that, whether or not some of these others decided to run was an important consideration in an individual desire to have an alternative. I can only say that many, many times when a particular individual was considered a possible candidate, for instance, the inclination to sign would be greater than when that individual might not be a candidate and, so, I can't separate personalities from issues. They seem to be identified with the issues and collectively, my experience has been that the total process and the total backdrop makes up the framework within which things operate and that, also, when you have a situation similar to the one we had in Maryland, virtually everybody was thinking about that Senate race and those issues and those personalities coming much later. There was a lot of confusion about where I fit in that process.

(Mr. Nilson) Well, to the extent that you were going around to the voters before the, let's say, the primary campaigns had heated up, and speaking to the issues (T. 69) that then were then in the minds of everyone and yourself and the voters, you weren't having your position on those issues being attacked by an opponent or a potential opponent, were you?

(Mr. Bradley) No.

(Mr. Nilson) I mean, you were just expressing your own views on the issues at the time?

(Mr. Bradley) Yes.

(Mr. Nilson) Without having to be particularly concerned that Senator Beall, Senator Tydings or Congressman Sarbanes would lash out on you and say your position on this or that issue was all wet, not correct?

(Mr. Bradley) The likelihood of that occurring was very slim because all through 1975, no one who could

have reported or conveyed my stand on the issues ever covered a speech that I gave.

(Judge Winter) Of course, the converse is true, too, is it not, that you couldn't say to a voter, I think, on so and so, now, compare this to one of my likely opponents, who thinks to the contrary, don't you agree with me and if you agree with me, wouldn't you vote for me or sign my petition? Wasn't that also true?

(Mr. Bradley) Certainly.

(T. 70) (Mr. Nilson) Well, following that up, is it also true, to the extent that your opponents were people who had long prior public life and public record, you could very easily speak to an issue on which Senator Tydings had a voting record, Congressman Sarbanes had a voting record and Senator Beall had a voting record and say, even though, perhaps, they hadn't gotten into the campaign, I am an independent, Bruce Bradley. Look at the way Senator Beall has voted on this issue and look at my position on this issue. You were able to do that back before the primary campaign had heated up, were you not?

(Mr. Bradley) That would have been possible, but that wasn't really the problem that confronted the campaign or the petition process or the realistic political challenge that faced us. Certainly, that's possible.

* * * * * *

(T. 72) (Mr. Nilson) In fact, when you turned in the signatures, didn't you really know that barring some miracle of perfection with respect to the signatures and their validity, that you probably weren't going to make it in terms of valid signatures?

(Mr. Bradley) Yes.

(T. 73) (Mr. Nilson) And, you really knew the night you turned them in?

(Judge Winter) He said yes.

(Mr. Nilson) Okay.

(Mr. Bradley) Let me say—

(Mr. Nilson) It was about the same time — it wasn't a month or so later when you realized that?

(Judge Winter) What was the question, I'm sorry, I missed it.

(Mr. Nilson) I just wanted to establish that the witness knew that on the night or the day or about on the day, March 8th, when he turned that in and my next question is whether or not, during the period following March 8th and preceding the filing of this law suit, there had been efforts continually on your behalf, on the part of volunteers to gather additional signatures, in validation of this law suit.

(Judge Winter) Well, we know there was a consent order which would permit the continued solicitation of signatures. You are asking him whether this has been done?

(Mr. Nilson) No, Your Honor, I'm speaking of the period of time from March 8th, when the witness has just testified—

(Judge Winter) All right, can you answer that question? Was your organization or your friends and (T. 74) your representatives, were they soliciting signatures on petitions up to the time this law suit was filed?

(Mr. Bradley) No, although we have been instructed by Mr. Morris to do so or encouraged by Mr. Morris to do so.

* * * * * *

(T. 78) (Mr. Nilson) Following March 8th and the filing of your 53,000 signatures, in dealing with groups before which you wished to appear, did you ever or generally make it a point to tell them that you just filed all these signatures and you were now a candidate in the full sense of the word?

(Mr. Bradley) Yes.

(Mr. Nilson) That was sort of a put-up prize following March 8th and the filing of those signatures?

(Mr. Bradley) No, I took — no, in the month of March, with the exception of one invitation that had previously been agreed to, my campaign was inactive.

(Mr. Nilson) In April — let's take us into early April.

(Mr. Bradley) I have had one this month.

(Mr. Nilson) But, in approaching groups since March 8th—

(Mr. Bradley) I haven't.

(Mr. Nilson) You haven't approached any of them since March 8th.

(Mr. Bradley) No.

(Mr. Nilson) They have all been coming to you?

(T. 79) (Mr. Bradley) Yes.

(Mr. Nilson) Are they generally aware of the fact you filed your signatures on March 8th?

(Mr. Bradley) If I could clarify this.

(Mr. Brown) Your Honor, I don't know how he can answer that question.

(Judge Winter) If you know.

(Mr. Nilson) If he knows.

(Judge Winter) He already answered it, in part. He said a number of these things, they would write to him and address him as "Dear primary candidate."

(Mr. Bradley) Here's what happened. I think when I went down to Annapolis to file the signatures, to fill out a certificate of candidacy and pay my filing fee, my name then went on a list with the other primary candidates and only then did I begin to get invitations to speak, which I don't think had anything to do with how many signatures I got. I think it had to do with then becoming a part of the traditional political machinery that was in the works, but, then, of course, we knew that our margin was close. We knew the likelihood was that we would have difficulty. I determined not to make any more commitments or spend any more money, hire any other people, something like that, until we understood what would happen.

(T. 80) (Mr. Nilson) You knew long prior to March 8th you were a candidate, a formal candidate in the eyes of federal law, did you not, in other words, you filed reports with the Federal Election Commission and you were—

(Mr. Bradley) Yes.

(Mr. Nilson) You had a live candidacy under the federal law, during the petition gathering process?

(Mr. Bradley) Yes.

(Mr. Nilson) So, to the extent that the source of lists of candidates is from the Federal Election Commission. You were on that list well prior to March 8th, were you not?

(Mr. Bradley) That's right.

* * * * * *

(T. 88) (Mr. Brown) Doctor, you have been tendered to the Court as an expert witness in the area of election laws. Would you briefly describe what your background and experience has been with respect to election laws, per se?

(Professor Smolka) For the last five years, I have been devoting almost all my time to this particular area. Prior to that, I had devoted a considerable portion of my academic, both in teaching and research to the general field of elections and partially to election law, but this would include such things as serving as the professional staff member of the Maryland Constitutional Convention on Elections. It would include founding the Institute of Election Administration at the American University in 1971. I was its only director for (T. 89) four years since it was in existence. I have had an election newsletter on the general subject of election administration for the past five years. This newsletter goes to the Secretary of State, Attorney Generals and the local registrar of voters, Supervisors of Elections throughout the country. In addition, I have performed contract research for the Office of Federal Elections when it was in the General Accounting Office and am currently engaged to do so for the Federal Election Commission.

(Mr. Brown) What type of research are you doing for the Federal Election Commission, such as it is, now?

(Professor Smolka) All right, it is a general structural, functional description of the administration of elections

in the 50 states, the District of Columbia and Puerto Rico, which would include types of state agencies, range of power discretion, and so forth.

(Mr. Brown) With respect to election laws, per se, would it be fair to describe your work as being primarily in the area of partisan elections between major parties?

(Professor Smolka) Not really because we deal with such things as political primaries, general elections, which would include registration of voters which is not exactly in every state, partisan. It also includes the administration of local elections, many of which are non-partisan and, while, obviously, the more important elections are normally conducted on a two party basis, (T. 90) it would include substantial dealings with elections that are either contested by independent candidates and/or are not partisan.

(Mr. Brown) What is the extent of your own personal experience with respect to the petitioning process for independent candidates?

(Professor Smolka) Have I ever collected any?

(Mr. Brown) No, with respect to your academic experience, just with respect to that.

(Professor Smolka) Most recently, I have had two students who collected petitions for Bruce Bradley, one of whom was a field supervisor.

(Mr. Brown) With respect to your academic experience and background, specifically.

(Professor Smolka) Not on collecting. For example, I'm familiar with the problem of seeing how many are gathered, what form they are gathered, who gathers them.

The process, for example, and this is almost on a commercial basis in California compared with an ad hoc basis, perhaps in a state like Missouri. I haven't done any collecting, but I have seen how many can be collected in how great a time and I have talked to many people who have done collections of petitions and they have described both the problems and the difficulties of trying to get them.

(Mr. Brown) You say you are familiar with the process?

(T. 91) (Professor Smolka) Yes.

(Mr. Brown) Speaking once again, only from an academic standpoint, have you done research or conducted studies within your area of concern dealing, specifically, with the problem?

(Professor Smolka) I have not done any quantitative research. I have talked to many state officials who have discussed, for example, the difference between who is eligible to sign a petition, whether the person has to be a registered voter or not a registered voter, whether or not the person has to be or cannot be a member of a political party, whether the person did or did not vote in the primary election, whether the intent of the voter was or was not to support the candidate on whom the petition was signed, the timeliness of the petition, the date on which they may be collected, the number, say, how many you have to get on one petition. Is it easier to get them on a short petition or a long petition, what is the wording? Does the wording commit the voter or not commit the voter, these kinds of things. I'm familiar with all those. Also, the process of verification of the petitions.

(Mr. Brown) Have you done any specific work in the area of determining the relative ease of garnering signatures at various points of time in a campaign?

(Professor Smolka) The only way we can make this (T. 92) determination is to see—

(Judge Winter) Professor Smolka, excuse me, I think the answer is either yes or no. You were asked, have you done any work in this area?

(Professor Smolka) I'm trying to describe the work, Your Honor. I haven't collected any petitions.

(Mr. Brown) That's not the question.

(Judge Winter) That's not the question. Would you restate it, please, Mr. Brown.

(Mr. Brown) Yes, thank you. Have you done any work and that includes work of academic or practical experience in determining the relative ease of petition gathering at various stages prior to a primary or general election?

(Professor Smolka) I have not done any quantitative research specifically directed to that precise point.

(Mr. Brown) Have you ever been a candidate for public office?

(Professor Smolka) No.

(Mr. Brown) You have never collected petitions for a candidate for public office?

(Professor Smolka) No.

(Mr. Brown) Have you ever done a case study on a Independent petition campaign?

(Professor Smolka) No.

(Mr. Brown) Have you done any case studies or engaged in any research which would enable you to (T. 93) conclude that the identity of an independent candidate could be known prior to a primary election?

(Professor Smolka) I don't quite precisely understand how one could do any research to see whether something should be done. I don't understand the question.

(Mr. Brown) Well, let me refer you specifically to your testimony. You mentioned in your testimony that there appears to be an interest on the part of the state or somebody that the identity of an independent candidate be known prior to the primary. Is that a fair characterization of your testimony?

(Professor Smolka) Yes, because we are talking about a competitive situation.

(Mr. Brown) Before you finish that, if I may, have you done any research, either on practical experience or academic research, to enable you to conclude that? Has your research encompassed that area of expertise and study?

(Professor Smolka) Here, I would say it is more practical experience.

(Judge Winter) What practical experience have you had?

(Professor Smolka) I managed a Congressional campaign, Your Honor.

(Mr. Brown) A Congressional campaign, a campaign (T. 94) for a political party?

(Professor Smolka) That's right.

(Mr. Brown) Not an independent?

(Professor Smolka) That's correct.

(Mr. Brown) Was there an independent in the race?

(Professor Smolka) I don't believe so that year.

(Judge Winter) Did you win or lose?

(Professor Smolka) We won the primary, Your Honor.

(Mr. Brown) Your Honor, on the basis of the evidence and testimony which has been presented here, I would move to strike the testimony of Professor Smolka based on the fact the expertise has not been established and, indeed, is contradicted by the evidence which he has given and he is not qualified as an expert witness in the area of the petitioning process.

(Judge Winter) The motion is denied, Mr. Brown, I think in the case of the ruling, first of all, what purports to be testimony is pretty close to arguments and these are facts of the matter, so, even if some of the factual things and conclusions which we could reach for ourselves, if we simply sat down and studied the elections laws for every state, I think on the answer to the specific inquiries which you made, you have brought out, perhaps, goes to the weight of the opinions expressed, but I don't think we are prepared to say, as a matter of law, that the opinions expressed by this (T. 95) witness are inadmissible.

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(T. 116) (Mr. Nilson) Mr. Morris, have there been independent candidates in this 1976 who will appear on the ballot in the general election by virtue of having filed nominating petitions?

(Mr. Morris) Yes.

(Mr. Nilson) Tell the Court who those are.

(Mr. Morris) It will be a Mr. Robin Ficker, candidate for Congress from the 8th District and Montgomery,

(T. 117) Mr. William Salisbury who was a candidate for Congress in the 7th Congressional District in Baltimore City.

(Mr. Nilson) And, are congressional candidates, as in the case of state-wide candidates subject to the 3 percent requirements?

(Mr. Morris) Yes, they are.

(Mr. Nilson) Are they also required to file their nominating petitions by March 8th?

(Mr. Morris) They are.

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(T. 131) (Mr. Brown) It was your testimony, I believe, that there are other candidates in the state who have qualified to run for office as an independent candidate, is that correct?

(Mr. Morris) In this next election?

(Mr. Brown) Yes.

(Mr. Morris) Yes.

(Mr. Brown) Those are not state-wide candidates?

(Mr. Morris) Congressional.

(Mr. Brown) And, when you testified that the 3 percent figure was applicable, you did not mean the 3 percent figure of the entire registered voters in the State of Maryland, did you?

(Mr. Morris) No, with the Congressional District.

(Mr. Brown) For example, how many signatures does that entail for Mr. Ficker?

(Mr. Morris) Mr. Ficker had to have 8,361 ballot signatures.

(Mr. Brown) And, for Mr. Salisbury?

(Mr. Morris) Mr. Salisbury — 3,864.

(Mr. Brown) Mr. Morris, was there another state-wide candidate for the independent state-wide or national office who was attempting to qualify as an independent?

(Mr. Morris) There were some petitions filed for another state-wide candidate, yes.

(Mr. Brown) Who was that?

(T. 132) (Mr. Morris) Eugene McCarthy.

(Mr. Brown) And, did former Senator McCarthy qualify by the March 8th deadline?

(Mr. Morris) No.

(Mr. Brown) How many signatures were filed on behalf of Senator McCarthy?

(Mr. Morris) 12,424, that's signatures, not ballots.

(Mr. Brown) How many valid signatures?

(Mr. Morris) 9,147.

(Mr. Brown) Mr. Morris, the attachment to your prepared testimony deal with the elections of 1968 and 1974, is that correct?

(Mr. Morris) Yes.

(Mr. Brown) And, is it the case that in 1968 and 1974, that the filing deadline for independent candidates was in July in both years?

(Mr. Morris) In 1968, there was no presidential primary.

(Mr. Brown) So, the filing deadline for independents was in July?

(Mr. Morris) It was in July.

(Mr. Brown) And, in 1974?

(Mr. Morris) In 1974 it was in July.

(Mr. Brown) And, each of the candidates who are shown to have qualified in those years, thereby, were not required to file their nominating petitions until July, is that correct?

(T. 133) (Mr. Morris) There were different dates in July, between the two of them, too, because of the difference in the primary dates.

(Mr. Brown) They were not required to file until the month of July, is that correct?

(Mr. Morris) That's correct.

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(T. 137) (Judge Winter) All right, you may ask him if he knows of any reason why changing the date for filing a petition in a presidential year of a year of a presidential election to July would present a situation, Mr. Morris, which would create an impractical situation, administratively.

(Mr. Morris) Your Honor, could I answer that in a little different manner? The fact that it was put to July 1st and I refer to the newspaper story and my conversation with Mr. Bradley, and the fact that he is saying here that I said until July the 1st. I said until July the 1st for one-third of the petitions provided in a presidential year the candidates submitted two-thirds of the petitions by the filing deadline because there's four months difference in that year than in a gubernatorial year. That was clearly stated and they're all aware of that.

(Mr. Nilson) Your Honor, I would be prepared to stipulate that the answer to your question on impossible administrative burden by changing the date in a presidential year, and conform roughly to that in a gubernatorial year, from the point of view of administration and the function of the election official, it would create an impossible or insurmountable problem, and in (T. 138) that respect it is no different from the administrative machine point of view than a gubernatorial election.

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(T. 139) (Mr. Brown) Mr. Morris, since the change of the election laws which require an independent candidate's signatures to be filed seventy days in advance of a presidential election, in presidential years, presidential primary years, has an independent candidate for statewide office ever qualified for the general election ballot?

(Mr. Morris) No.

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